



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WUILZON ZACARIAS RUIZ RIVERA,
et al.,

Plaintiffs,

-against-

POLARIS CLEANERS 99, INC., et al.,

Defendants.

18-CV-8817 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed plaintiffs' letter dated July 6, 2020 (Pl. Ltr.) (Dkt. No. 64), seeking approval of the parties' Settlement Agreement (Agreement) (Dkt. No. 64-1), pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). The Agreement requires defendants Polaris Cleaners 99, Inc. d/b/a Polaris Organic Cleaners (Polaris) and Richard J. An to pay \$40,000 to settle this action. Ag. ¶ 1. Of that sum, \$25,024.78 will go to plaintiff Wuilzon Zacarias Ruiz Rivera and \$1,000.00 will go to plaintiff Rodolfo Hidalgo Albino, in full settlement of their Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL) claims, *id.*, and \$13,975.22 will go to plaintiffs' attorneys for their fees and costs. *Id.*; *see also* Pl. Ltr. at 3. The payment will be made in eleven installments, the first of which will be in the amount of \$5,000.00, followed by ten equal payments of \$3,500.00 each. Ag. ¶ 1 (a)-(k). The installment payments are backed by affidavits of confession of judgment executed by defendants Polaris and An. Ag. ¶ 1(m); *see also id.* at 8-12.

The Agreement includes a unilateral but limited release, in which plaintiffs release defendants from "any and all claims that relate to or arise out of matters alleged in [this action], including all claims under the New York Labor Law and Fair Labor Standards Act." Ag. ¶ 2. There

is no confidentiality clause or other contractual restriction on any party's ability to speak about the case or its settlement.

Having presided over portions of the settlement process and reviewed the terms of the Agreement, including the award of fees and costs to plaintiff's counsel, the Court finds that they are fair and reasonable as required by *Cheeks*, 796 F.3d at 199. The Court was informed, among other things, that plaintiff Albino no longer wished to pursue his claims and was prepared to dismiss them without any compensation. Accordingly, while the relatively modest payment to Albino would otherwise merit scrutiny, the Court is satisfied that, under the specific circumstances of the case, the allocation of the settlement proceeds between the plaintiffs is fair and reasonable.

Accordingly, the proposed settlement is **APPROVED**. It is hereby **ORDERED** that this action is **DISMISSED** with prejudice and without costs.

The Clerk of Court is respectfully directed to close the case.

Dated: New York, New York
July 17, 2020

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge